

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,) Criminal
) No. 18-538 (MKB)
Government,)
) STATUS CONFERENCE
vs.)
) Brooklyn, New York
NG CHONG HWA, also known as) Date: November 22, 2019
Roger Ng,) Time: 10:00 a.m.
)
Defendant.)

TRANSCRIPT OF STATUS CONFERENCE
HELD BEFORE
THE HONORABLE JUDGE MARGO K. BRODIE
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

For the Government: Alixandra Smith, AUSA
Jacquelyn M. Kasulis, AUSA
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-and
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(Appearances continued on the next page)

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1 APPEARANCES: (Continued)

2
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9 For the Defendant: Marc Agnifilo, Esq.
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16 Proceedings reported by machine shorthand, transcript produced
17 by computer-aided transcription.

18 Court Reporter: Annette M. Montalvo, CSR, RDR, CRR
19 Official Court Reporter
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21 225 Cadman Plaza East
22 Brooklyn, New York 11201
23 718-804-2711
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1 (WHEREUPON, commencing at 10:08 a.m., the following
2 proceedings were had in open court, to wit:)

3 THE COURTROOM DEPUTY: This is criminal cause for
4 status conference. Docket 18-CR-538, *United States v. Ng Hwa*.

5 Will the parties please state their appearance for
6 the record.

7 THE COURT: You can remain seated, Counsel.

8 MS. KASULIS: Jacqueline Kasulis and Alixandra Smith
9 with the US Attorney's office, Jennifer Ambuehl with the money
10 laundering and asset recovery section, and Nikhila Raj from
11 the fraud section.

12 THE COURT: Good morning, Counsel.

13 MS. KASULIS: Good morning, Your Honor.

14 MR. AGNIFILO: Good morning, Your Honor. Marc A.
15 Agnifilo, Jacob Kaplan, Teny Geragos, and we are in court with
16 Roger Ng. Good morning.

17 THE COURT: Good morning.

18 Okay. So what is the status of this matter today?

19 MS. KASULIS: Your Honor, we have provided this
20 morning a fourth tranche of discovery. We anticipate in the
21 next couple of weeks providing our final sort of smaller
22 tranche, which would comprise what we see as well our -- the
23 evidence that we would be presenting at trial.

24 There are some potential additional components of
25 discovery. We plan to have discussions with defense counsel.

1 We don't see them as necessarily being directly relevant to
2 the case, but we will, of course, share what that discovery is
3 and have discussions with counsel to make sure that if they,
4 in fact, want that discovery, we will provide it.

5 Obviously, the investigation is ongoing, and so if
6 we do obtain additional discovery, we will provide that to the
7 defense as soon as we obtain it.

8 THE COURT: Okay. So in view of the fact that
9 discovery was disclosed today, I am assuming that you need
10 additional time, Counsel?

11 MR. AGNIFILO: We think -- I do, Your Honor.

12 What we are thinking of doing, in light of the fact
13 that we have a May trial date, is possibly setting a motion
14 schedule with motions, have defense motions due sometime in
15 early February. When we see --

16 THE COURT: So you have a sense of what motions you
17 plan on making?

18 MR. AGNIFILO: I have a sense of some, not of all.
19 We have had a very active discussion and negotiation with the
20 government on discovery issues. So as these things mature and
21 as we see what the new discovery is, I am happy to keep the
22 government apprised and the Court apprised as to what the
23 other motions will be.

24 The way I see this case, and even though it is six
25 months off, it is never too early to start having these

1 thoughts, is possibly the most challenging issue is that most
2 of the important actions took place overseas. So that raises
3 challenges in terms of making sure that we get the right
4 documentary evidence that we're going to need for the trial,
5 if there are witnesses that are abroad.

6 So I think the majority of the motion practice is
7 going to be, with that in mind, the possibility of Rule 15
8 depositions of witnesses who might be abroad, different
9 avenues that we might want to pursue to try to get documents
10 that are abroad.

11 We have gotten millions and millions of pages of
12 information from the government, and we are still getting some
13 more. So since that's not quite a static situation, I don't
14 yet know exactly what we'll need, but we're going to try and
15 front load those issues for the Court and for the government
16 so that there are no surprises, you know, in the month or two
17 months leading up to trial that there's important evidence
18 overseas that we are still trying to get our hands on. So I
19 see that being really the crux of it.

20 THE COURT: Well, in view of the fact that you plan
21 to seek information from abroad, you do have to do that sooner
22 rather than later if you hope to keep the May trial date.

23 MR. AGNIFILO: That's right, Judge.

24 THE COURT: Which is based on how long these
25 applications usually take.

1 MR. AGNIFILO: That's right.

2 THE COURT: And the process, even if you want to do
3 Rule 15 depositions.

4 MR. AGNIFILO: Right. So that's -- we are -- once
5 we get all of the discovery, and I think we probably have the
6 vast majority, but we don't quite have all of it, what we
7 would do is go back to the government and try to do this in as
8 collegial a manner as possible. Because there are a lot of
9 very complicated issues that, frankly, we could avoid. Just a
10 for instance, if we see we want to call a certain witness who
11 might be a Goldman Sachs employee, and the government says,
12 well, we are going to call them, then that's a problem that we
13 don't have, so we don't have to focus on that.

14 So I think it is important to be as collegial and
15 prepared as early as we can be, because it is a lot of
16 material, and we are still going through it. I mean, we are
17 talking multiple million -- I don't know what it is, 8 or 9
18 million pages of stuff.

19 We have it all on databases, and we are searching
20 through it, and we are making our way, certainly. But I think
21 those would be the challenges of this case.

22 And so rather than, quite frankly, I don't want to
23 say wasting the Court's time, but making motions that really
24 aren't likely to resolve in anything meaningful, we can try
25 and focus on the things that are really going to, you know, be

1 kind of the crux of the case. So we have had a very good
2 dialogue, and I am sure it will continue.

3 THE COURT: So why don't we establish a motion
4 schedule then.

5 MR. AGNIFILO: Very good, Judge.

6 THE COURT: When in February can you file your --

7 MR. AGNIFILO: First week, anytime that's good for
8 the Court.

9 THE COURT: Make it February 7.

10 MR. AGNIFILO: That's fine, Judge.

11 THE COURT: How much time will the government need
12 to respond? I appreciate that you don't know exactly what the
13 motions will be.

14 MS. KASULIS: Say, two weeks, Your Honor.

15 THE COURT: Okay. So that will make it February 21.
16 And reply, Counsel?

17 MR. AGNIFILO: A week after that, Judge.

18 THE COURT: The 28th, for reply.

19 Okay. And so to the extent the parties can get
20 together and resolve any issues prior to filing motions, that
21 would be helpful to the Court. I am not going to set a date
22 yet for hearing. It depends on what the motions are. I don't
23 know whether or not there will be a need for a hearing. But I
24 will put this over for a status at the end of January. That
25 will give the Court an opportunity to by then hear from you,

1 Counsel, as to what motions you plan to make.

2 MR. AGNIFILO: Very good, Your Honor.

3 THE COURT: When are the parties available, the last
4 week in January? Either the week of the 20th or the 27th.

5 MR. AGNIFILO: Does the Court like these Fridays?
6 We can do the 31st, if the Court can do it.

7 THE COURT: That's fine. I will put it on for the
8 31st. I can't recall -- I believe I am on trial that week,
9 but it shouldn't matter, especially if we make it at 10:00 in
10 the morning.

11 MR. AGNIFILO: Very good.

12 MS. KASULIS: That's fine for the government, Your
13 Honor.

14 MR. AGNIFILO: That's fine for us.

15 THE COURT: Okay. So January 31, at 10:00 a.m. And
16 I'm excluding time.

17 MR. AGNIFILO: Yes, Judge.

18 THE COURT: On consent of all parties.

19 MR. AGNIFILO: That's correct.

20 THE COURT: Is there anything else we need to
21 discuss today?

22 MS. KASULIS: No, Your Honor.

23 MR. AGNIFILO: Not from us. Thank you, Judge.

24 THE COURT: We're adjourned. Have a good day,
25 everyone.

1 (WHEREUPON, at 10:15 a.m., the proceedings were
2 concluded.)
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6 **REPORTER'S CERTIFICATE**

7 I, ANNETTE M. MONTALVO, do hereby certify that the
8 above and foregoing constitutes a true and accurate transcript
9 of my stenographic notes and is a full, true and complete
transcript of the proceedings to the best of my ability.

10 Dated this 24th day of January, 2020.

11 /s/Annette M. Montalvo
12 Annette M. Montalvo, CSR, RDR, CRR
Official Court Reporter
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